

Application No. 10/015,572  
Reply to Office Action of January 2, 2004

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### REMARKS

#### Agents of Record

For the captioned application, the undersigned attorney advises that the contact agent of record, Alfred Macchione, has relocated his practice to the firm of:

McCarthy Tétrault LLP  
Customer Service #: 27155  
Toronto Dominion Bank Tower  
P.O. Box 48, Suite 4700  
Toronto, Ontario  
M5K 1E6 Canada

Applicant has consented to having contact agent retain responsibility as agent of record. Undersigned attorney advises that in total the following agents of record are also now associated with the same customer number and have the authority to also act on behalf of the Applicant for the above matter:

Alfred Macchione	Reg. No. 40,333
Robert Nakano	Reg. No. 46,498 (undersigned attorney)
Brian Gray	Reg. No. 30,017
Kenneth Bousfield	Reg. No. 40,460
Christopher Hunter	Reg. No. 52,528

Undersigned attorney also advises that the attorney reference number has been changed to

Atty's Docket No.: T01215-0108 US (123081-339723).

Applicant requests that the USPTO update its records for this application accordingly.

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**Summary of Office Action**

In the Office Action of January 2, 2004, the Examiner rejected claims 1, 11 and 12 as being anticipated by United States Patent No. 5,699,369 to Guha ("Guha") under 35 U.S.C. 102(b) and rejected claims 2 to 10 and 13 to 18 as being unpatentable over Guha in view of de Bruijn *et al* ("de Bruijn") under 35 U.S.C. 103(a).

**Remarks regarding Claims**

Claims 1 to 11, and 13 to 18 are presently pending in the application. Applicant herein amends claims 1-11 and 13-18. Claim 12 is cancelled without prejudice. Applicant believes that no further claim fees is payable; however, Commission is authorized to charge Agent's deposit account 15-0663 for any such fees.

Claims 1 and 11 are amended to further define aspects of Applicant's invention relating to redundancy of datasources and data paths. Further aspects are defined relating to specific data switching points from within one data path to points within the other data path. Exemplary support for these amendments are found in Fig. 1A and the specification at page 9, line 14 to page 11, line 2. No new subject matter is added therein.

Claims 2-10 and 13-18 are amended to provide element antecedent consistency amongst the newly amended claims. No new subject matter is added therein.

Applicant traverses rejection of claims 1 and 11 as follows. Applicant's invention relates to a system and method for selecting a datasource in from a plurality of datasources. Further, in a particular embodiment, the system and method provide switching of data between two modules, where each module has a set of internal switching points and cross-connections to allow data to be transferred from a location within one module to a location within the other module and *vice versa*. As such, a data path can be established which flows between the two modules. Such features are captured in the claim 1 and 11 as amended.

Meanwhile, Guha simply discloses an adaptive forward error correction (FEC) protocol for use in an asynchronous transfer mode communication network and is not

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related to a datasource selection system. Guha is directed to the specific field of error correction protocols. See in Guha, at col. 9, lines 55 to 59. While an error correction protocol is involved in one aspect of Applicant's invention, Applicant's system involves active monitoring and switching of datasources upon detection of errors in the datastream.

Examiner cited Guha at col. 29, lines 15 to 24 as teaching source selection. Applicant traverses this citation, noting that Guha discloses a feasibility condition assessment which determines, prior to transmission, whether forward error correction encoding would be useful by assessing whether the encoding is likely to enable a receiving network entity to correct errors that are expected to occur during transmission. This citation is not directed to a switching system per Applicant's invention.

In view of the above, claims 1 and 11, as amended, are not anticipated by Guha.

Applicant traverses rejection of claims 2-10 and 12-18 in view of Guha and Bruijn as follows.

As noted earlier claim 12 is cancelled, thereby rendering rejection thereof moot.

Rejection of claims 2-10 and 13-18 are traversed in view of amendments made to claims 1 and 11 and Applicant's arguments regarding the relevance of Guha thereagainst.

Further, Applicant submits that there is no motivation to combine Guha and de Bruijn. As noted above, Guha is directed towards error correction of data. Meanwhile, de Bruijn is directed to control systems involving computer networks, where a front end computer periodically communicates with computers in the network and then determines fault based on responses received. See Abstract.

Also, even if there were motivation to combine Guha and de Bruijn, they do not teach internal switching of datasources between and amongst elements in redundant datapaths as provided in Applicant's invention. Applicant's invention allows for internal switching between components in redundant streams within a single communication switch. Meanwhile, de Bruijn simply teaches obtaining data status information macroscopically from several computers. Validation, health monitoring, error severity

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checking and other noted capabilities of de Bruijn relate specifically to individual computers reporting on their health for separate tasks to a front end computer. While a computer may have a redundant mate in de Bruijn, there is no further complexity with the levels of redundancy, per the switching provided in Applicant's invention. As such, even if Guha were to be combined with de Bruijn, the collective art does not teach Applicant's system and method as claimed.

In view of the above, Applicant traverses rejections of claims 2-10 and 12-18.

#### Closing Comments

Applicant believes that no petition of time is required for the filing of this response. However, if any extension of time is required, Applicant hereby petitions for a sufficient extension and authorizes Commissioner to charge any related extension fees, or any other required fees, to Agent's account 15-0633.

In view of each of the amendments and comments herein, Applicant submits that the claims as provided herein are novel and non-obvious. As such, the claims and the application are in condition for allowance and that all rejections are traversed.


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Further, Applicant earnestly solicits that this application be permitted to proceed to allowance. The Examiner is invited to contact the undersigned by telephone to discuss this case further, if necessary.

Respectfully submitted

April 2, 2004

Date

Robert H. Nakano  
(Registration No. 46,498)

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